IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

CRP.No. 443 of 2007()

AGAINST THE ORDER DATED 20/10/2006 IN EP.456/2004 IN OS.357/2003 of PRL.SUB COURT,IRINJALAKUDA

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REVN. PETITIONER: PETITIONER/DECREE HOLDER

SADU @ RAMADEVAN, S/O.PALLATH KUTTAPPAN,
VADAKKOOT HOUSE, PACHALIPURAM DESOM,
AMBALLUR VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.T.N.MANOJ

RESPONDENTS: JUDGMENT DEBTOR

JOSHY, S/O.PAUL, MULLAKKARA HOUSE,
KALLUR VILLAGE DESOM, AMBALLUR POST,
THRISSUR DISTRICT.

BY ADV. SRI.V.M.KRISHNAKUMAR

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.NO.443 OF 2007-A

Dated this the 6th day of September, 2007.

O R D E R

This C.R.P is preferred against the order of the subordinate Judge, Irinjalakuda, in E.P.No.456/2004 in O.S.No.357/2003 . The petition is one for realisation of the amount due under the decree. It is the case of the decree holder that the judgment debtor is a goldsmith by profession and he is having a monthly income of Rs.8,000/= and that he had already availed a loan of Rs.Two lakhs and possessed a motor bike. The court below found that no convincing evidence has been adduced to prove the jewelery business. So far as the vehicle is concerned, the court below held that it is a hire purchase with the I.C.I.C.I Bank and therefore, the judgment debtor has no title to the vehicle and further it is held that it has been sold. Under those circumstances, the court below dismissed the execution petition. The learned counsel for the revision petitioner would submit that the approach of the court below is erroneous and some evidence is adduced before the court to show that there is means. He would also contend that if an opportunity is given, he will be able to produce the documents and adduce

further evidence to prove the means of the judgment debtor. Considering the said fact, I feel an opportunity can be given to the decree holder to establish his case.

Therefore, the order under challenge is set aside and the matter is remitted back to the execution court with a direction to permit both the parties to adduce evidence in support of their respective contentions and dispose of the matter in accordance with law. The parties are directed to appear before the court below on 6.10.2007.

M.N. KRISHNAN, JUDGE.

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